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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

VIA HAND DELIVERY

Magalie R. Salas, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: Notice of *Ex Parte* Presentation by e.spire Communications, Inc. and
Intermedia Communications Inc.**

***Implementation of the Local Competition Provisions in the
Telecommunications Act of 1996 -- CC Docket No. 96-98*** ✓

Dear Ms. Salas:

Pursuant to Sections 1.1206(b)(1) and (2) of the Commission's Rules, e.spire Communications, Inc. ("e.spire") and Intermedia Communications Inc. ("Intermedia"), by their attorneys, submit this notice in the above-captioned docketed proceeding of an oral *ex parte* presentation made and written *ex parte* materials distributed on August 9, 1999 during separate meetings with Commissioner Harold Furchtgott-Roth and Katherine Harris, Legal Advisor to Commissioner Furchtgott-Roth; Sarah Whitesell, Legal Advisor to Commissioner Gloria Tristani; and Linda Kinney, Legal Advisor to Commissioner Susan Ness. The presentations were made by Charles Kallenbach, Vice President, Legal and Regulatory of e.spire; Heather Gold, Vice President, Regulatory and External Affairs, and Julia Strow, Assistant Vice President, Industry Policy, both of Intermedia; Jonathan Askin, Vice President, Law, of the Association for Local Telecommunications Services; and Jonathan Canis and John Heitmann of Kelley Drye & Warren LLP. Copies of the written materials distributed at the meeting are attached hereto.

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Magalie R. Salas
August 10, 1999
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During the presentation, e.spire and Intermedia discussed concepts presented in and raised by the attached position paper entitled "Frame Relay and Data UNEs," which initially was presented, in response to Common Carrier Bureau staff requests, on July 21, 1999. e.spire and Intermedia also discussed the need for functional UNEs which are able to transcend varying technologies used to deliver telecommunications traffic.

Pursuant to Sections 1.1206(b)(1) and (2), an original and two copies of this *ex parte* notification (with attachments) are provided for inclusion in the public record of the above-referenced proceeding. We would be pleased to provide additional copies of the paper and its appendix, upon request. Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,



John J. Heitmann

cc: Commissioner Harold Furchtgott-Roth (w/out Appendix)
Katherine Harris (w/out Appendix)
Sarah Whitesell (w/out Appendix)
Linda Kinney (w/out Appendix)
Kyle Dixon (w/out Appendix)
Chairman William Kennard
Commissioner Susan Ness
Commissioner Michael Powell
Commissioner Gloria Tristani
Dorothy Attwood

e.spire / Intermedia

Frame Relay and Data UNEs

Position Paper

- Technical overview of frame relay technology and service.
 - Physical components of frame relay service.
 - How a frame relay transmission gets from point A to B – and how fast.
 - Frame relay in terms of the OSI protocol stack.
- Why current arrangements with ILECs are stalling competition and limiting consumer choice in data service providers.
- Specific unbundling proposals: a PVC UNE or specific frame relay UNEs in combination (corresponding to tariffed elements of ILEC frame relay service).
- Frame relay / data UNEs satisfy the “impair” standard.

Diagrams

- A** Frame relay frame
- B** Getting to the first frame relay switch
- C** Frame relay – physical components
- D** PVCs and ILEC tariffed elements
- E** Frame relay on the OSI protocol stack
- F** Connecting frame relay networks to expand the reach of ILEC and CLEC networks
- G** Frame relay interconnection
- H** How to get a frame relay customer onto a CLEC’s frame relay network
- I** Different delivery options lead to different pricing scenarios

Appendix

- e.spire frame relay interconnection and UNE arbitration decisions from Arizona, Colorado and New Mexico.
- Frame relay service excerpts from RBOC/GTE FCC access tariffs.

The FCC must extend its implementation of the local competition provisions of the 1996 Act into the packet-switched world.

- The FCC has determined that the Act is technology neutral.
- ILECs are not “new entrants” into packet-switched data transmission markets.
 - ILECs deployed frame relay and other data technologies before the 1996 Act.
 - ILECs have continued to deploy new technologies, even though faced with potential unbundling obligations.
 - By generating additional demand and providing a reasonable profit, unbundling actually encourages ILEC deployment of advanced technologies.
- The ILECs’ ubiquitous loop and transport network, enormous embedded customer base, and resulting economies of scale give them distinct and decisive advantages that extend beyond the circuit-switched world.

Frame relay is a packet-based technology that provides a very efficient and reliable means of transporting high-speed, high volume, bursty data between geographically dispersed LANs.

- Frames are like programmable and extendable data boxcars – neither segmentation into standard-sized packets nor protocol conversions are required.
- Physical components of frame relay service include:
 - Customer premise equipment (at both ends of a transmission) known as a Frame Relay Access Device or Frame Relay Assembler/Disassembler (**FRAD**).
 - A loop, extended link or special access circuit known as a Frame Relay Access Link (**FRAL**).
 - Multiplexing equipment known as a Digital Access and Cross-Connect System (**DACS**) used to aggregate DS-0 traffic onto a common T-1 (or DS-1 traffic onto a T-3) headed for a frame relay switch. (~\$65,000)
 - A frame relay switch, including User-to-Network Interface Ports (**UNI Port**) and Network-to-Network Interface Ports (**NNI Port**). (~\$250,000)
 - DS-3 and OCn transport links.
- Getting from point A to point B is accomplished by assigning Data Link Connection Identifiers (**DLCI**) to each “hop” between two pieces of frame relay equipment (CPE and switches).
 - A string of DLCIs constitute a Permanent Virtual Circuit (**PVC**).
- How fast a transmission travels across the frame relay network is determined by network capacity and engineering. Frame relay service is sold at minimum guaranteed speeds or Committed Information Rates (**CIR**).

Frame relay providers realize cost-efficiencies through the network engineering practice of “oversubscription”.

- The shared nature and integrated switching/transport fabric of frame relay networks allows for the assignment of multiple DLCIs to the same transmission link.
- To achieve maximum use of frame relay switching capacity and transport links, DLCIs at varying CIRs generally are assigned to switch/transport links so that the aggregate CIR or capacity commitment is equal to 200% of the capacity of the switch port and transport link.
- Oversubscription factors may be adjusted if unacceptable peak-hour congestion is experienced.
- The practice of oversubscription yields a lower TELRIC for packetized transmission versus shared or dedicated circuit-switched transport over standard high capacity transport links.

e.spire and Intermedia seek access to frame relay and data UNEs in order to fill-out their own advanced frame relay and ATM networks.

- e.spire has deployed 66 data switches nationwide and Intermedia has deployed 175, giving it coverage in most LATAs.
- Frame relay UNEs are essential to CLECs' ability to compete for contracts to provide frame relay services to customers with geographically dispersed LANs.
- e.spire and Intermedia will use frame relay UNEs to provide connectivity between outlying customer LAN locations and their own frame relay switching/transport fabric.
- e.spire and Intermedia will combine frame relay UNEs with their own frame relay network elements to provide a finished service to an end user.
- Although the Arizona Corporation Commission has determined that U S West must make frame relay interconnection and UNEs available to e.spire at TELRIC, frame relay UNEs remain unavailable there and generally are not offered by ILECs anywhere.
- State commission confusion over intra and interLATA jurisdictional issues has left frame relay interconnection a muddled mess. e.spire and Intermedia use a mix of "NNI Agreements" and services ordered out of FCC access tariffs to achieve interconnection so that they can deliver intraLATA and interLATA frame relay traffic to customers on the ILECs' frame relay networks.
- e.spire and Intermedia provide both intraLATA and interLATA frame relay services – they do not seek interconnection or access to UNEs exclusively to provide exchange access.

The Commission should require ILECs to provide unbundled access at TELRIC-based prices to a PVC UNE or to frame relay UNEs based on the ILECs' tariffed elements for frame relay service.

- Specific frame relay unbundling requirements should include:
 - Frame Relay Access Links (FRALs) – 2- or 4-wire loops in 56 kbps increments or extended links (including DACS multiplexing).
 - Frame Relay Transmission Fabric (integrated switching and DS-3/OCn transport links).
 - Corresponding ILEC tariffed elements for the integrated frame relay switching/transport fabric include:
 - User-to-Network Interface Ports (UNI Ports);
 - Network-to-Network Interface Ports (NNI Ports); and
 - Data Link Connection Identifiers at Committed Information Rates (DLCIs at CIRs).
- Because frame relay UNEs must be offered in combination to be useful, e.spire and Intermedia propose a single PVC UNE encompassing each of the ILECs' tariffed frame relay elements (FRAL, UNI and NNI Ports, DLCI@CIR).
- A PVC UNE likely would transcend specific packet-based technologies and, thus, would be technology neutral and more broadly applicable than specific frame relay UNEs.
- The FCC should reaffirm that all UNEs, including frame relay and data UNEs, must be priced at TELRIC.
- The FCC should continue to prohibit ILEC- or state commission-imposed restrictions on the use of UNEs.

Cost and time-to-market factors indicate that frame relay UNEs satisfy the “impair” test of Section 251(d)(2). Without unbundled access to frame relay UNEs, e.spire and Intermedia’s ability to compete is diminished materially.

- **Network proximity to each of a customer’s geographically dispersed LAN locations often translates into a decisive cost-advantage for the ILECs.**
- The ILECs’ ubiquitous customer access, combined with ubiquitously deployed end office, loop and transport facilities, has enabled them to deploy more frame relay switches closer to frame relay customers.
- While ILECs often are able to take advantage of the cost-efficiencies of a packet-switched network deployed at all customer LAN locations, CLECs that have not extended their frame relay networks to a particular business center must depend on special access, traditional UNEs and collocation, or (if available) extended links to connect a LAN in that business center to its frame relay network and other LANs in another business center.
- If CLECs are to compete effectively, their costs for packetized transport products must reflect the efficiencies realized by oversubscription.
- Costs of connecting each LAN, including those on- and off-net, must be factored into competitive bids. If off-net costs are not based on TELRIC that reflects the practice of oversubscription, CLECs may not be able to compete effectively for frame relay customers with geographically dispersed LANs.
- Resale, even if available at an avoided cost discount, and special access priced in excess of TELRIC do not provide cost-effective alternatives to UNEs.

Impair test (continued) . . .

- **Packet-switched UNEs can provide cost effective alternatives in cases where:**
 - Geographic market characteristics cannot yet justify self-provisioning (~\$250,000 for the switch, plus the costs of end office space, installation and collocation (~\$50,000));
 - As is the case with traditional UNEs, frame relay/data UNEs can be used as stepping stones toward self-provisioning.
 - Special access incorporates an expensive distance-sensitive transport component;
 - Special access can be an alternative, if prices are set at a TELRIC that reflects the efficiencies of packetized transport.
 - Traditional UNEs require collocation (in addition to a distance-sensitive transport component priced at circuit-switched TELRIC, the expense (~\$50,000) and delay (several months to more than a year) of collocation may make a competitive bid impossible);
 - If available, an extended link UNE or combination includes a long transport component priced at circuit-switched TELRIC.

Impair test (continued) . . .

- **Time-to-market: how long of a delay is too long?**
 - In order to compete effectively, a CLEC must be able to offer a competitive bid in roughly the same time and a provisioning interval of roughly the same length as an ILEC.
 - Self-provisioning will engender a delay substantially longer than that involved with use of a PVC UNE or other frame relay UNE combinations (determining the permissibility of combinations may involve additional delay).
 - Without a PVC UNE or frame relay UNE combinations, CLECs may not be able to demonstrate or accumulate sufficient demand to justify the costs of collocation and switch deployment – time-to-market delays could be unpredictable or interminable, either of which would prevent a competitive bid.
 - Delays associated with collocation (from months to more than a year) and additional frame relay switch deployment generally are not experienced by the ILECs.
 - Unless self-provisioning or wholesale alternatives to UNEs are available in a timeframe similar to that which the ILEC itself would need to provision the service, delay-to-market differentials compel unbundling.

Impair test (continued) . . .

- **The FCC's Section 706 mandate and the public interest also compel definition of frame relay/data UNEs.**
 - While frame relay UNEs may not accelerate the pace of competition in rural America, their impact on the small businesses driving today's Internet boom and economic expansion could be dramatic.
 - By generating additional demand and providing a reasonable profit, unbundling actually encourages ILEC deployment of advanced technologies.
 - As in the voice world, frame relay UNEs will extend the reach of competitive facilities-based networks and, thereby, will promote and maximize additional facilities deployment by competitors.
 - Extended reach means more choices for consumers.
 - Extending competitors' reach also will place pressure on ILECs to improve their frame relay service offerings and to move prices down toward cost.

e.spire / Intermedia

Frame Relay and Data UNEs

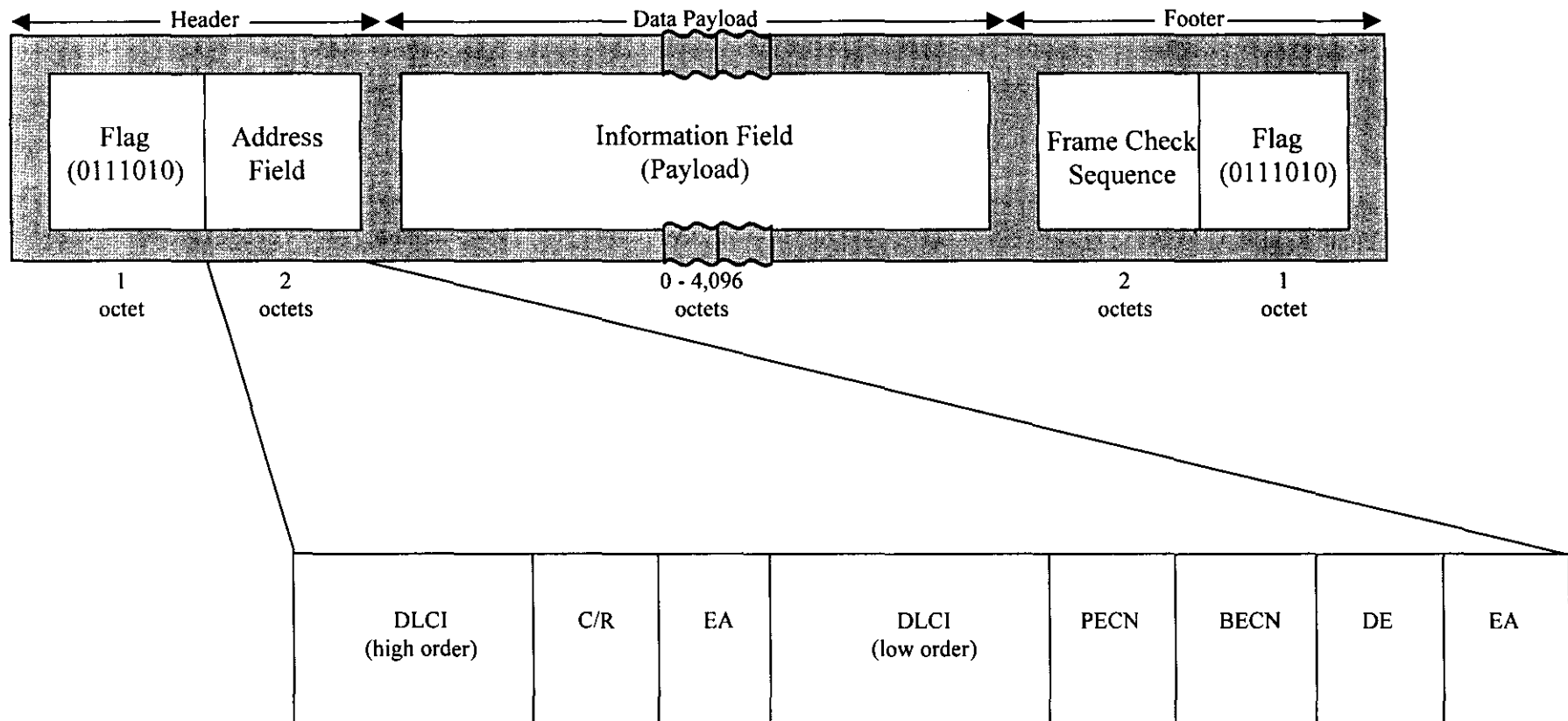
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August 9, 1999

e.spire / Intermedia *Ex Parte*

CC Docket No. 96-98

Frame Relay Frame

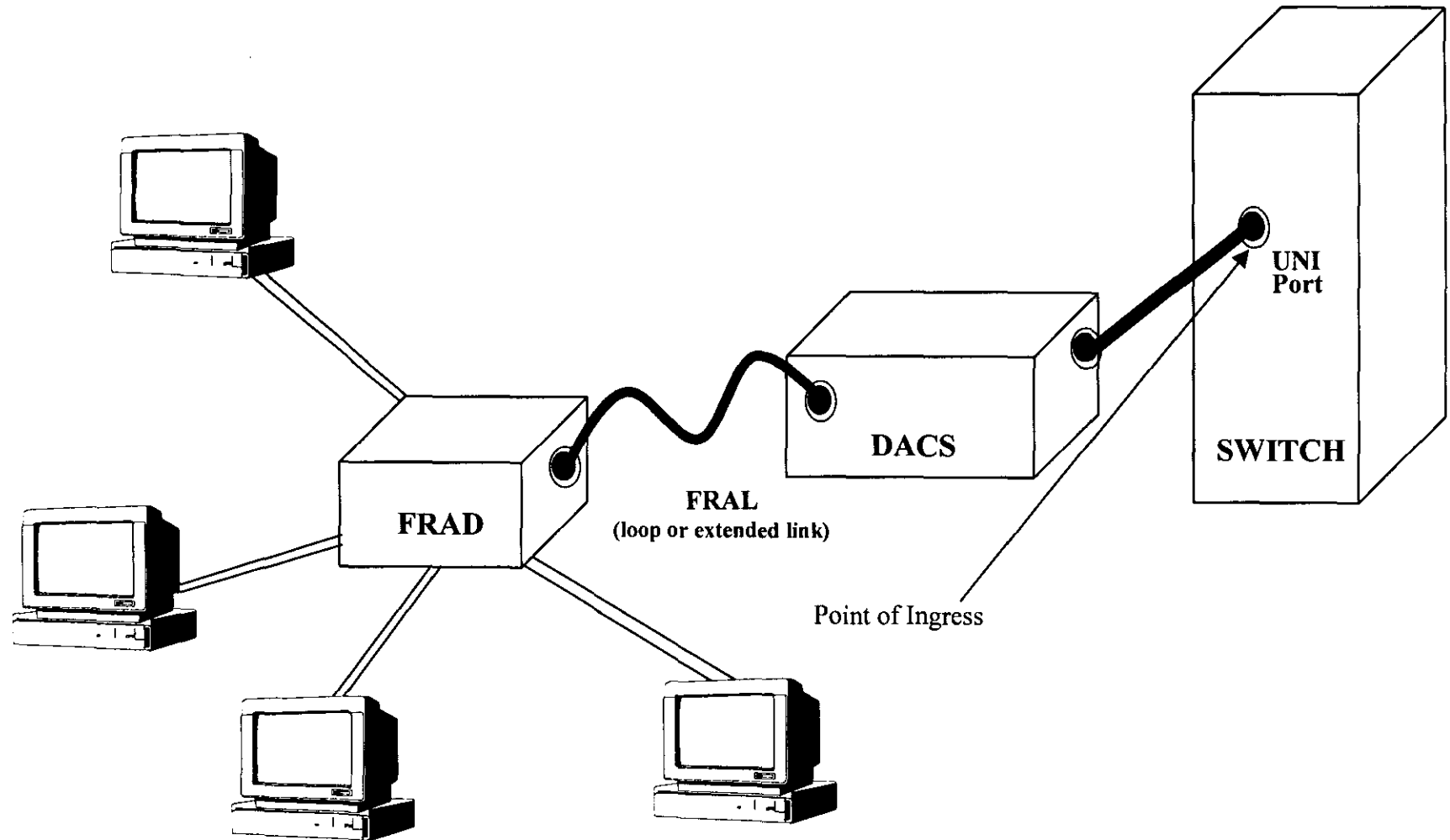


Octet = an 8 bit byte

DLCI	Data link connection identifier
C/R	Command/response field
FECN	Forward explicit congestion notification
BECN	Backward explicit congestion notification
DE	Discard eligibility
EA	Address field extension

Adapted from Newton's Telecom Dictionary

Getting to the First Frame Relay Switch



Frame Relay - Physical Components

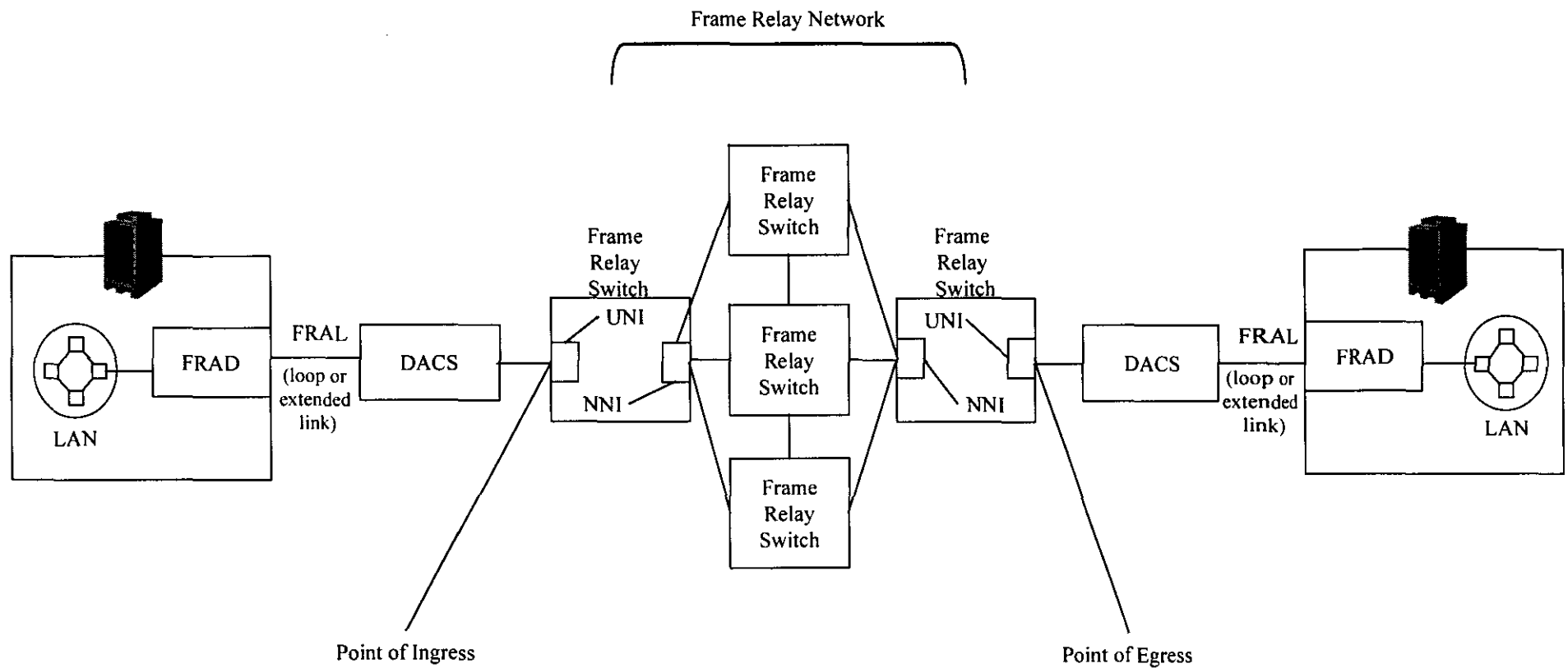
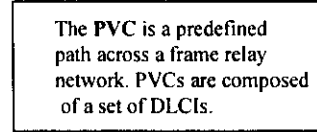


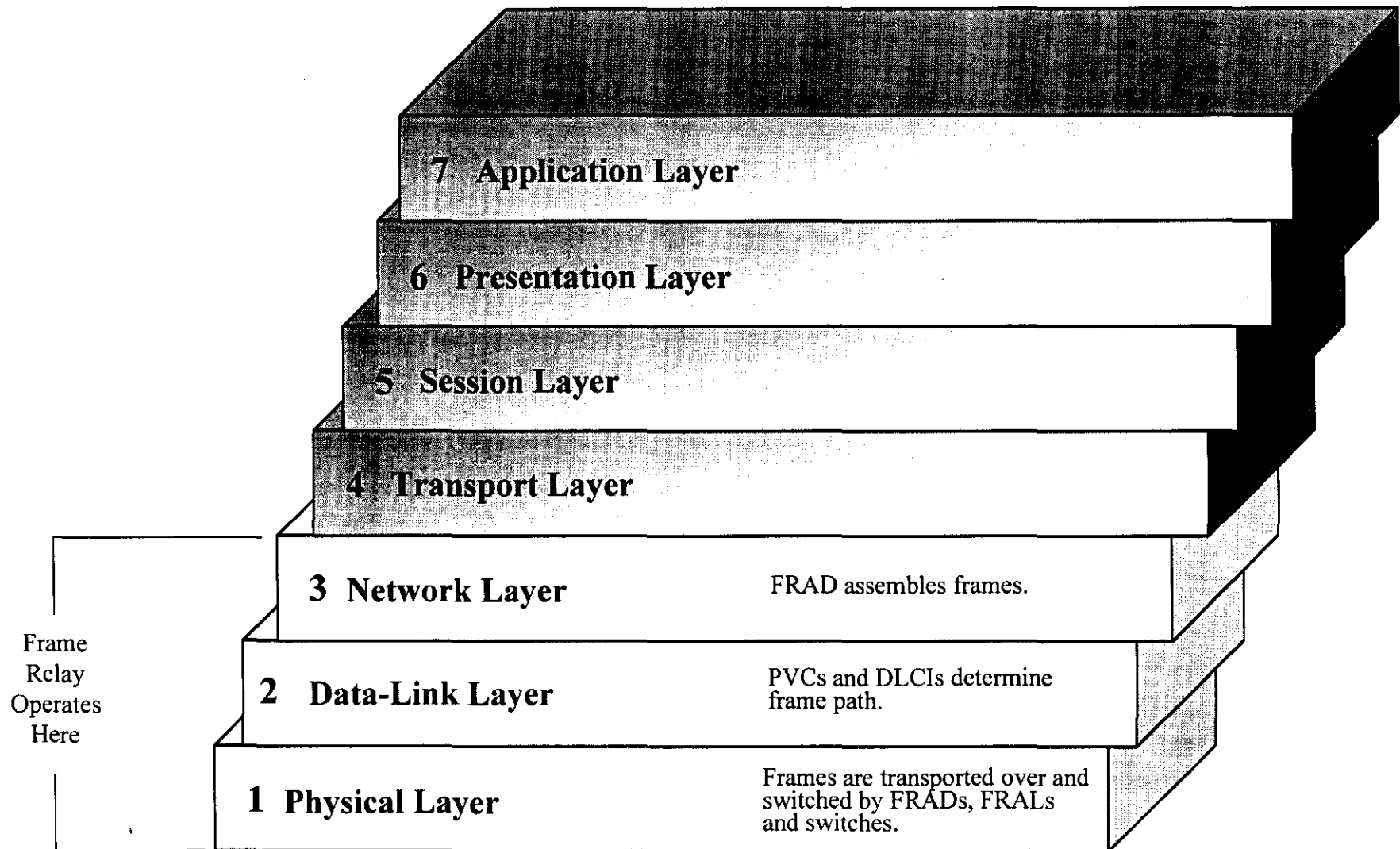
Diagram C

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Frame Relay on the OSI Protocol Stack



Connecting Frame Relay Networks to Expand the Reach of ILEC and CLEC Networks

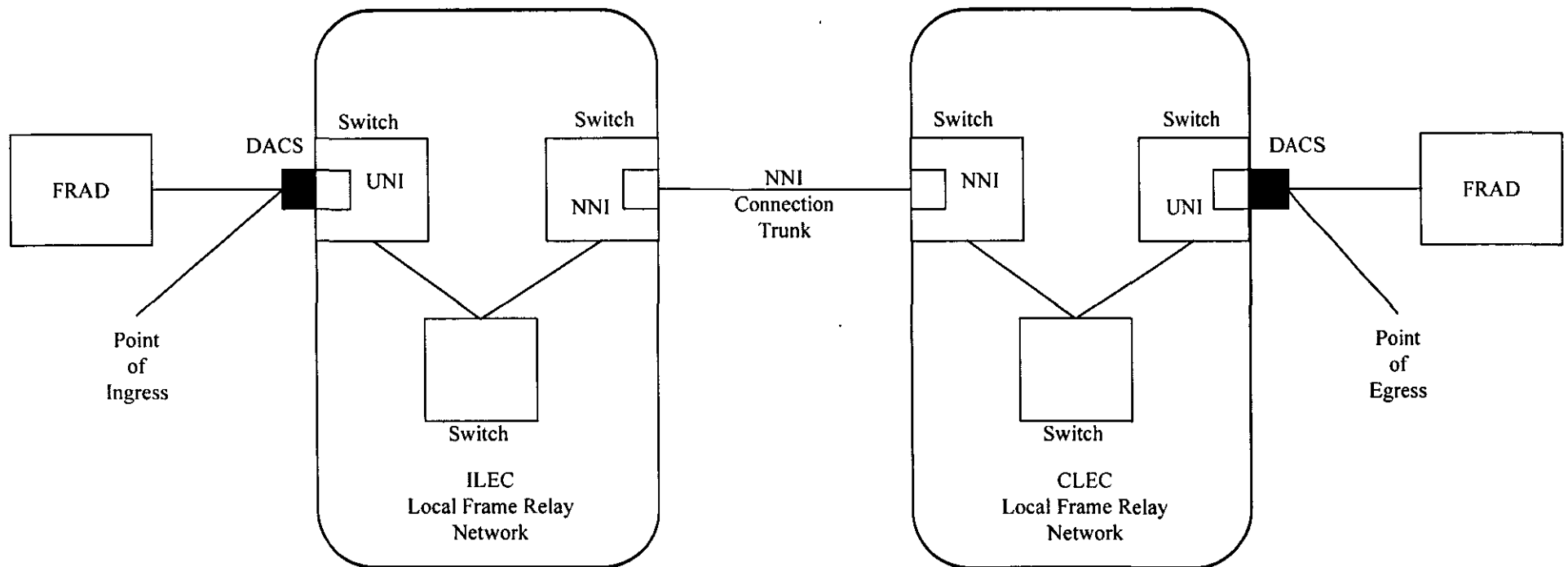


Diagram F

Frame Relay Interconnection

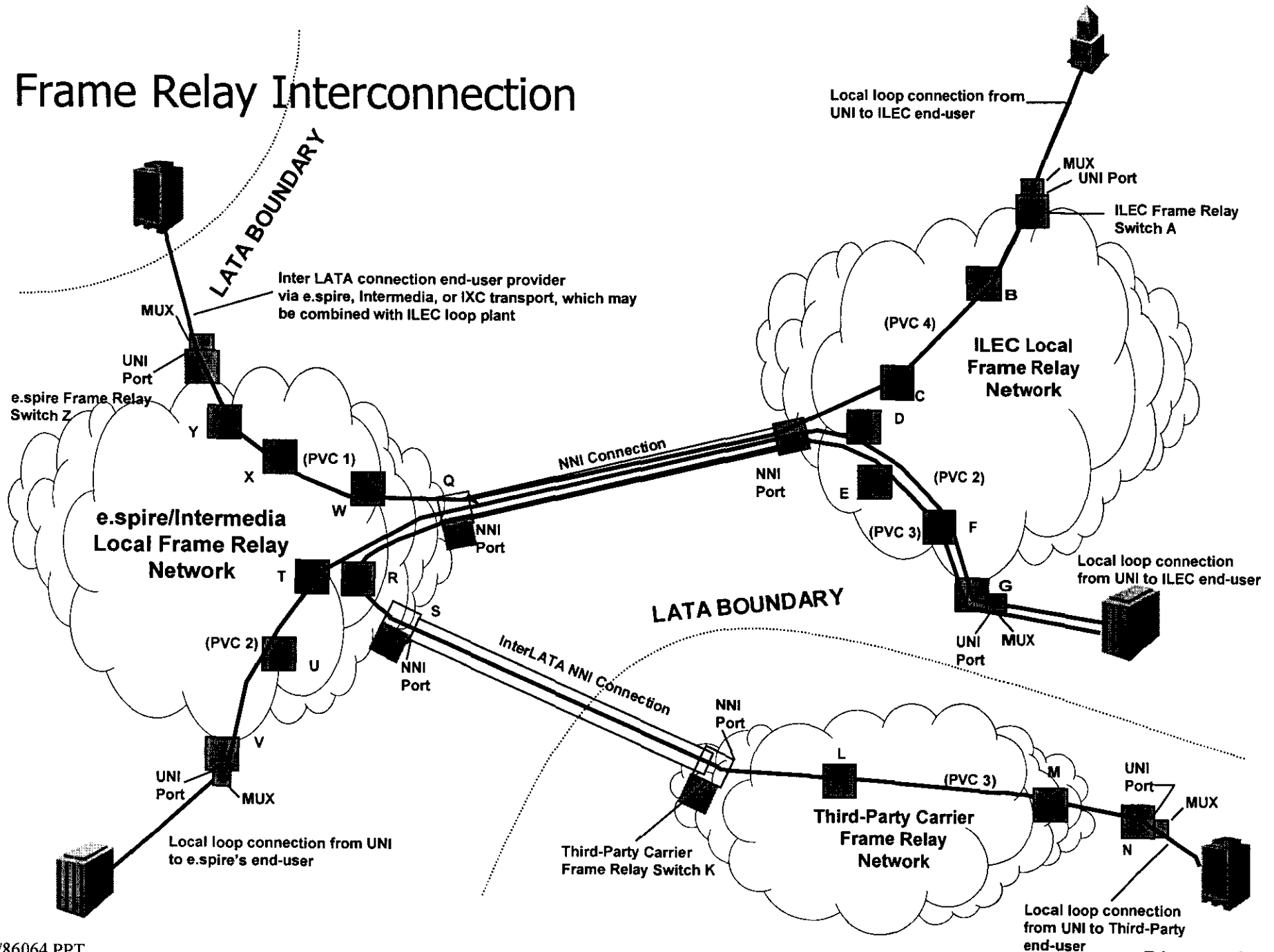
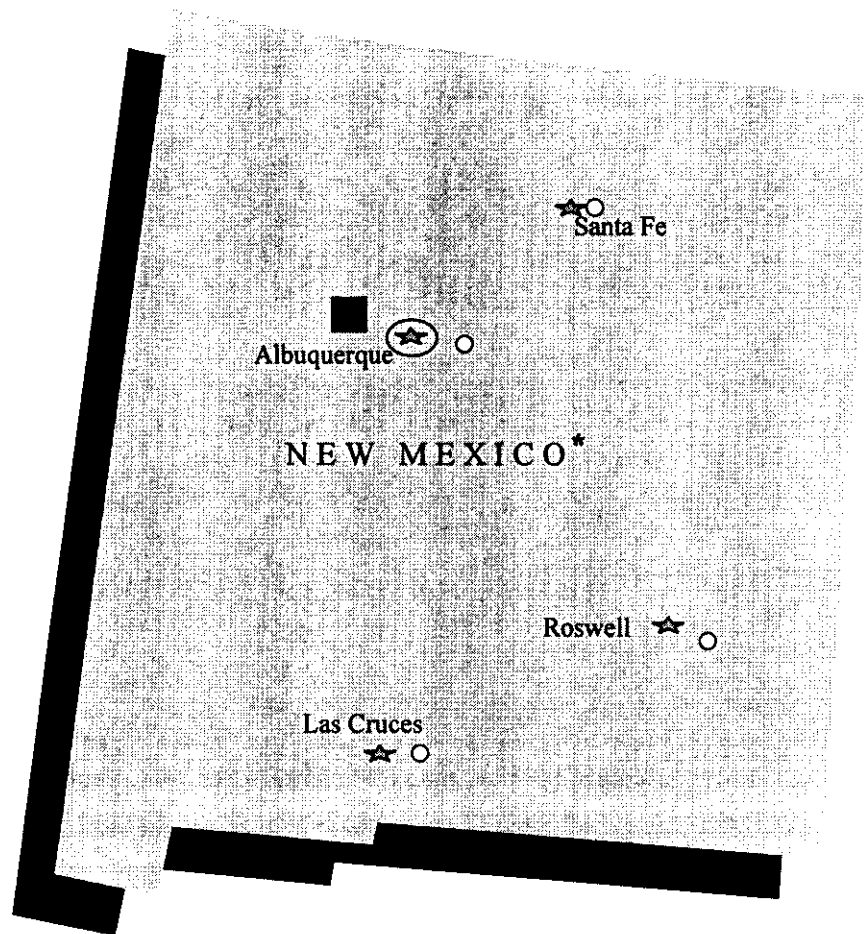


Diagram G

How to get a frame relay customer onto a CLEC's frame relay network

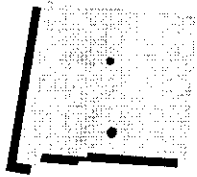


For the customer's headquarters location, the connection is simply made by bringing the customer "on-net" (self-provisioning a loop) or by leasing a local loop UNE.

For the customer's LANs in outlying locations, a CLEC, in this case, e.spire, should be able to choose between circuit-switched delivery or packet-switched delivery via ILEC UNEs. As demonstrated on the next diagram, each method presents several costing scenarios which factor directly into e.spire's ability to provide competitive frame relay services.

- ☆ Frame relay customer LAN (⊛ Headquarters)
- CLEC frame relay POP/switch
- ILEC frame relay POP/switch
- * New Mexico is a single LATA state

Diagram H



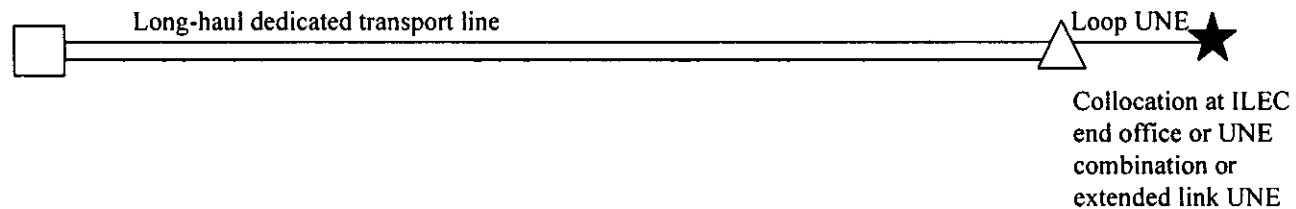
Pricing

Different delivery options lead to different pricing scenarios

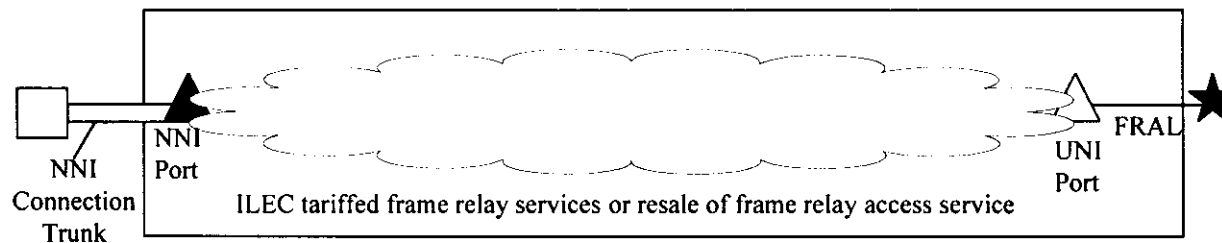
e.spire frame
relay
switch/POP
Albuquerque

Customer LAN
Las Cruces

May be efficient, if transport link is short. Prohibitively expensive in most cases where UNE combinations or extended link are not available. Even then, costs may not be comparable to the TELRIC of packet-switched transport.



Tariffed rates are unrelated to cost - do not reflect efficiencies of frame relay networks. Resale costs roughly 30-40% more than UNEs.



TELRIC pricing of ILEC rate elements reflects efficiencies of ILEC network.

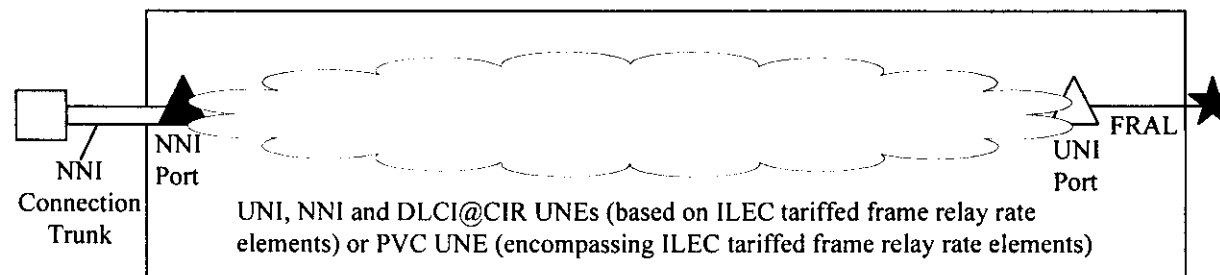


Diagram I